

Davis Polk

Lara Samet Buchwald
+1 212 450 4351
lara.buchwald@davispolk.com

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
davispolk.com

MEMO ENDORSED

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/5/2022

August 4, 2022

Re: Valelly v. Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Case No. 1:19-cv-07998 (VEC)

Honorable Valerie E. Caproni
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Dear Judge Caproni:

Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated and Plaintiff Sarah Valelly jointly file this letter motion requesting permission to address the potential redaction and/or sealing of confidential information in accordance with the dates and procedures identified below, which are intended to supplement Rule 5(B) of the Court's Individual Practices in Civil Cases.

Defendant's reply in support of its *Daubert* motion is due tomorrow, August 5, 2022 (ECF No. 134). These papers will be referencing materials that Defendant and nonparty Bank of America, N.A. have designated as confidential or highly confidential under the governing protective order. Section 5 of Your Honor's Individual Practices in Civil Cases provides that "[i]f a request to file a redacted document is based on another party's designation of information as confidential, the parties shall confer and jointly submit the request to file the material in redacted form."

Consistent with the approach that the parties took in connection with the class certification briefing and the earlier papers in connection with the *Daubert* motion (ECF No. 85, 106, 123), and to minimize the number of court filings and disputes regarding confidentiality that the Court will need to resolve, the parties propose as follows:

- Defendant will serve Plaintiff's counsel, by email, its papers due on August 5, 2022, but will not file them contemporaneously on ECF.
- The parties will promptly meet and confer within two business days after service to discuss the need to seal or redact exhibits and/or portions of the briefing.
- On August 15, 2022, Defendant will file, on ECF, its papers under seal, pursuant to Rule 5B.ii of Your Honor's Individual Rules, as well as a joint letter motion pursuant to Rule 5B.iii of Your Honor's Individual Rules reflecting the parties' respective positions on whether the material should be sealed or redacted.

DavisPolk

Honorable Valerie E. Caproni

The parties thank the Court for its attention to this matter.

Respectfully submitted,

Very truly yours,

/s/ Lara Samet Buchwald

Lara Samet Buchwald

CC: All counsel of record (via ECF)

Application GRANTED.

SO ORDERED.



Date: 8/5/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE